

Notice  
Of  
Rulemaking Hearing

Department of Commerce and Insurance  
Division of Regulatory Boards  
Scrap Metal Dealer Registration Program

There will be a hearing before the Commissioner of Commerce and Insurance to consider the promulgation of new rules pursuant to P.C. No. 690 of 2008. The hearing will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, T.C.A. § 4-5-204, and will take place in Room 160, Davy Crockett Tower, 500 James Robertson Parkway, Nashville, Tennessee 37243 at 09:00 a.m.(CST) on the 21<sup>st</sup> day of October, 2008.

Any individuals with disabilities who wish to participate in these proceedings (or review these filings) should contact the Department of Commerce and Insurance to discuss any auxiliary aids or services needed to facilitate such participation. Such initial contact may be made no less than ten (10) days prior to the scheduled meeting date (or the date the party intends to review such filings) to allow time for the department to determine how it may reasonably provide such aid or service. Initial contact may be made with Don Coleman, ADA Coordinator, Department of Commerce and Insurance, 500 James Robertson Parkway, Nashville, Tennessee 37243, at (615) 741-0481.

For a copy of this notice of rulemaking hearing, contact: Sara Luna, Regulatory Board Licensing Manager, 500 James Robertson Parkway, Nashville, Tennessee 37243, (615) 253-2547.

Substance of Proposed Rules

New Rules

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0780-5-14-.01 Purpose

The purpose of this chapter is to provide for administration and implementation of the scrap metal dealer registration program, *Tenn. Code Ann.*, Title 62, Chapter 9 (as amended by Public Acts of 2008, Chapter 690), herein referred to as the “Act”.

Authority: *Tenn. Code Ann.* § 62-9-102.

0780-5-14-.02 Definitions

(1) As used in this chapter, unless the context otherwise requires, the definitions of terms contained in T.C.A. § 62-9-101 are applicable.

(2) “Person” means, according to the context, any individual, association, partnership, corporation, or any other legally cognizable organization or entity or their employees and duly authorized agents who have the authority to buy, exchange or deal in scrap metal.

Authority: Tenn. Code Ann. §§ 62-9-102 and 1-3-105.

#### 0780-5-14-.03 Registration

(1) Any person who buys, exchanges, or deals in scrap metal either as an employer or employee must register with the Department of Commerce and Insurance as a scrap metal dealer.

(2) All registrations issued under this part shall expire two (2) years from the date of issuance or renewal thereof.

(3) Registration may be withdrawn by mailing the certificate of registration, along with any accompanying form required by the department, back to the Department.

(4) A change in address for a registrant shall be reported to the Department within thirty (30) days.

Authority: Tenn. Code Ann. §§ 62-9-102.

#### 0780-5-14-.04 Applications

(1) All applications for registration as a scrap metal dealer shall be made on a form provided by the Department of Commerce and Insurance and accompanied by a non-refundable application fee.

(2) All applications must include the name of the applicant, the social security number or tax payer identification of the applicant, the physical and mailing address of the scrap metal dealer, and the telephone number of the scrap metal dealer. All applications must be signed by the applicant and by the owner, partner or authorized corporate officer of the scrap metal dealer.

(3) An applicant shall disclose, under penalty of perjury, any criminal conviction of a violation of this Act and any conviction of the criminal offense of theft, burglary or vandalism where the offense involves scrap metal and the date of any such conviction.

(4) Failure to disclose a criminal conviction on the application for registration shall be a basis for the denial of the application.

(5) Failure to submit a complete application for registration shall be a basis for the denial of the application.

Authority: Tenn. Code Ann. § 62-9-102.

#### 0780-5-14-.05 Renewals

(1) Prior to the expiration of their registration, a registrant shall submit an application for renewal of registration on the prescribed form and accompanied by a non-refundable renewal fee.

(2) All applications for renewal must include the name of the applicant, the social security number or tax payer identification of the applicant, the physical and mailing address of the scrap metal dealer, and the

telephone number of the scrap metal dealer. All applications for renewal must be signed by the applicant and by the owner, partner or authorized corporate officer of the scrap metal dealer.

(3) The application for renewal shall disclose, under penalty of perjury, any criminal conviction of a violation of this Act and any conviction of the criminal offense of theft, burglary or vandalism where the offense involves scrap metal and the date of any such conviction.

(4) Failure to disclose a criminal conviction on the application for renewal shall be a basis for the denial of the renewal.

(5) Failure to submit a complete application for renewal shall be a basis for the denial of the renewal.

(6) Registrations cannot be renewed after they expire. If a registration is not renewed prior to expiration, a new application will be required to be submitted.

Authority: Tenn. Code Ann. § 62-9-102.

#### 0780-5-14-.06 Fees

(1) All applications for registration under the Act shall be accompanied by a non-refundable fee of one hundred seventy five dollars (\$175).

(2) All applications for renewal of registration under the Act shall be accompanied by a non-refundable fee of one hundred twenty five dollars (\$125).

(3) A request for a replacement certificate shall be accompanied by a non-refundable fee of ten dollars (\$10).

(4) A request to change the address on a certificate shall be accompanied by a non-refundable fee of ten dollars (\$10).

Authority: Tenn. Code Ann. § 62-9-102.

#### 0780-5-14-.07 Check issuance fee

A scrap metal dealer may charge the person selling scrap metal a check issuance fee of ten percent (10%) of the dollar value of the scrap for the dealer's administrative costs of processing and issuing any check required by the Act. However, the fee, if charged, shall be a minimum of two dollars (\$2.00) and shall not exceed five dollars (\$5.00) per check.

Authority: Tenn. Code Ann. § 62-9-104.

#### 0780-5-14-.08 Vouchers

(1) A voucher issued as payment for scrap metal as required by the Act shall expire six (6) months from the date of the transaction.

(2) Any unredeemed voucher funds shall be remitted to the Department of Commerce and Insurance, with a form provided by the Department, within one (1) year of the expiration of the voucher.

Authority: Tenn. Code Ann. § 62-9-104.

#### 0780-5-14-.09 Revocation

(1) The registration of a person convicted of a violation of any provision of the Act, or the criminal offense of theft, burglary or vandalism if such offense involved scrap metal, shall be immediately revoked by operation of law upon such conviction.

(2) The law enforcement agency responsible for the conviction shall transmit to the Commissioner of Commerce and Insurance a copy of the judgment of conviction of a person registered as a scrap metal dealer.

Authority: Tenn. Code Ann. § 62-9-110.

#### 0780-5-14-.10 Uniform Marking

In order to be considered marked under Tenn. Code Ann. § 62-9-102(a)(9), the scrap metal must be clearly and visibly embossed, engraved, etched, painted or otherwise marked with the name of the governmental entity, business, company, or the name of the owner of such metal.

Authority: Tenn. Code Ann. §§ 62-9-102 and 106.

#### 0780-5-14-.11 Uniform Terminology

The following terms are the uniform terminology describing the types of metal and objects most commonly sold as scrap to be used in the transaction records:

Acetylene cutting torch	Copper tubing	Motor vehicle
Air conditioner	Dishwasher	Motor vehicle parts
Air conditioner coil	Dryer	Motor vehicle – crushed
Air conditioner condenser	Electrical box	Muffler/muffler pipe
Aluminum ladder	Farm/garden	Pipe – iron
Aluminum panels	equipment/implements	Pipe – stainless steel
Angle iron	Fence	Precious metal
Backflow preventer	Firearms	Radiator
Bare aluminum wire	Fuel Tank	Refrigerator/freezer
Bare copper wire	Heater core/furnace	Rolled Metal coil
Bare steel wire	Insulated aluminum wire	Scaffolding
Batteries	Insulated copper wire	Stove/oven
Bolt Cutters	Insulated steel wire	Toolbox – truck
Cable – aluminum	Kitchen exhaust hood	Toolbox – jobsite
Cable – copper	Lawn Mower	Washing machine
Cable – steel	Microwave oven	Welder
Catalytic converter	Miscellaneous aluminum	Wrought iron
Chains	scrap	
	Miscellaneous copper scrap	
Compressed gas	Miscellaneous iron scrap	
cylinder/tank	Miscellaneous steel scrap	

Authority: Tenn. Code Ann § 62-9-102 and 104.

I certify that this is an accurate and complete representation of the intent and scope of rulemaking proposed by the Commissioner of Commerce and Insurance.

\_\_\_\_\_  
J. Wayne Pugh  
Deputy General Counsel for Regulatory Boards  
Department of Commerce and Insurance

Subscribed and sworn to before me this \_\_\_\_ day of \_\_\_\_\_, 2008.

\_\_\_\_\_  
Notary Public

My commission expires on the \_\_\_\_\_ day of \_\_\_\_\_, 200\_\_.

The notice of rulemaking set out herein was properly filed in the Department of State on  
the \_\_\_\_ day of \_\_\_\_\_, 2008.

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Riley C. Darnell  
Secretary of State

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